

EXHIBIT 1

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 Before The Honorable Vince Chhabria, Judge
4

5 SURGICAL INSTRUMENT SERVICE)
6 COMPANY, INC.,)
7 Plaintiff,)
8 vs.) No. C 21-03496-VC
9 INTUITIVE SURGICAL, INC.,) Related cases:
10 Defendants.) No. C 21-03825-VC
NO. C 21-05198-VC
NO. C 21-05266-VC

11 San Francisco, California
12 Wednesday, August 11, 2021

13 TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND
14 RECORDING 2:57 - 3:30 = 33 MINUTES

15 APPEARANCES:

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24
25 (APPEARANCES CONTINUED ON NEXT PAGE)

1 that.

2 THE COURT: In any event -- and -- and you're
3 perfectly free to file the motion, but we'll -- I think we
4 should go ahead and set a schedule.

5 Now, on the issue of scheduling, you know, I started
6 looking at these schedules, and my head started spinning. I
7 mean, shouldn't the -- shouldn't the schedule -- and maybe
8 they are, but shouldn't the schedule be on the same track
9 for all four of these cases?

10 MS. LENT: We believe they should.

11 THE COURT: So it will be -- it will be two cases
12 after the motion -- assuming the motion to consolidate is
13 filed and that that motion is granted.

14 MR. CORRIGAN: Yes, your Honor, that's true. So
15 the -- the Exhibit A that we have filed with our case
16 management statement -- and that's the three Hospital
17 Plaintiffs -- that would presumably be for those three
18 cases, and we've negotiated to some extent with Defendants
19 on the schedule, and they've triggered their motion to stay.

20 So, it wouldn't be the four cases. If -- if things
21 went the way we think they should go and you think they
22 should go, then the three hospital cases would be on the
23 same track and the same schedule.

24 THE COURT: Well, why shouldn't the -- and then
25 there would be one hospital case. Why shouldn't the

1 hospital case be on the same track as the SIS case? Is it
2 because the hospital case is just going to take a lot longer
3 to litigate because it's a proposed class action?

4 MR. CORRIGAN: We're not saying it shouldn't be,
5 your Honor, for -- for most part. Certainly for discovery
6 we think it makes a lot of sense to coordinate discovery.
7 But your Honor is correct. The class action vehicle may
8 take some time, and Mr. McCaulley's SIS case does not
9 involve that. So they may veer off there at some point.
10 But certainly for discovery purposes, it very likely makes
11 sense to coordinate with the SIS case.

12 MR. MCCAULLEY: And, your Honor, from SIS's
13 perspective, we did try to coordinate and perhaps did a poor
14 job of it, but --

15 THE COURT: No. It may be that I just didn't --
16 it was just too confusing to look at all these different
17 documents.

18 MR. MCCAULLEY: We could certainly go back and
19 work together. What SIS proposed was to stay on the same
20 track with the hospital cases I think through expert
21 discovery. And then when the class certification issues --
22 where they came in their schedule looked logical for us, and
23 if they've agreed to it, obviously, we don't mind. But then
24 at that point we would diverge because we're not a -- we're
25 not a class action. But absolutely SIS agrees coordination

1 -- and I think Intuitive does as well -- coordination of the
2 schedules up to the class specific briefing makes a lot of
3 sense.

4 THE COURT: Okay. So that -- so that makes sense
5 to me, and so I'm looking at the schedule that you
6 submitted. So then there are competing schedules. So I
7 have to be flipping back and forth between these competing
8 schedules.

9 The Defendants' is not helpful because it's based on an
10 assumption that there's going to be a stay, and I -- based
11 on what I know now, that seems very unlikely. So I think
12 what I will do, if -- if this makes sense to you all, I will
13 adopt the Plaintiffs' proposed schedule in the SIS case, and
14 then I'll ask you -- in the Hospital case, I'll ask you to
15 submit a stipulation that conforms to that schedule and also
16 builds in deadlines for filing a motion to consolidate and
17 all that stuff, right. We got to get that -- get that stuff
18 going too.

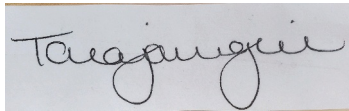
19 MR. CORRIGAN: Yes, your Honor. I think we'll --
20 we should be ready to -- again, the stipulation on
21 consolidation is with Defendants right now -- Defendant,
22 excuse me. And we're waiting for any edits they might have.
23 It's the type of thing we've filed in every class action
24 we've ever had.

25 THE COURT: Okay.

CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages of the official electronic sound recording provided to me by the U.S. District Court, Northern District of California, of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.



Echo Reporting, Inc., Transcriber

Wednesday, August 18, 2021